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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT**  
**IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

|                                   |   |                             |
|-----------------------------------|---|-----------------------------|
| GEORGE McMILLIAN,                 | ) | No. C09-01118               |
|                                   | ) |                             |
| Plaintiff,                        | ) | STIPULATION TO DISMISS      |
|                                   | ) | DEFENDANT CROWN CORK & SEAL |
| vs.                               | ) | AND REMAND CASE TO SAN      |
|                                   | ) | FRANCISCO SUPERIOR COURT    |
| ASBESTOS DEFENDANTS (BP), et al., | ) |                             |
|                                   | ) |                             |
| Defendants.                       | ) |                             |

Come now Plaintiff GEORGE McMILLIAN ("Plaintiff") and Defendant CROWN CORK AND SEAL COMPANY INC. ("CC&S"), who file the following stipulation pursuant to Local Rules 7-1 and 7-12:

WHEREAS, defendant CC&S removed this case to the United State District Court for the Northern District of California on March 13, 2009, on the ground that the court has "federal officer" subject matter jurisdiction under 28 United States Code § 1442(a) based on Plaintiff allegations that his injury was caused by products designed and manufactured by CC&S under the supervision and control of the United States government;

WHEREAS, Defendant CC&S was the sole removing defendant and no other defendant joined in removal or filed a separate notice of removal;

WHEREAS, Plaintiff and Defendant CC&S, the affected parties, have now reached a resolution of Plaintiff' claims against CC&S;

1 WHEREAS, Defendant CC&S's desire for a federal forum for this action is now moot  
2 and given the resolution of Plaintiff's claims against it; and

3 WHEREAS, pursuant to the parties' resolution, Plaintiff and Defendant CC&S seek to  
4 have this action remanded to state court, IT IS HEREBY STIPULATED by the affected parties,  
5 Plaintiff and Defendant CC&S, that all claims against Defendant CC&S shall be, and hereby  
6 are, dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure and  
7 that this action shall be, and hereby is, immediately remanded to the San Francisco County  
8 Superior Court, the court in which it was originally filed and from which it was removed.

9 Dated: March \_\_\_\_\_, 2009

BRAYTON ♦ PURCELL LLP

11 By: \_\_\_\_\_

12 Richard M. Grant  
13 Attorneys for Plaintiffs

14 Dated: March \_\_\_\_\_, 2009

ARMSTRONG & ASSOCIATES, LLP

16 By: \_\_\_\_\_

17 Paige Kremser Stenrud  
18 Attorneys for Defendant CROWN CORK &  
19 SEAL

20 **PURSUANT TO STIPULATION, IT IS SO ORDERED.** Case is REMANDED to the  
21 Superior Court of California, County of San Francisco, Case No 274532. The Clerk shall send  
22 a certified copy of this Order to the Clerk of the Court for the Superior Court of California,  
23 County of San Francisco.

24  
25 Dated: 4/1/09

26 By: \_\_\_\_\_

*Sandra B. Armstrong*  
UNITED STATES DISTRICT COURT